

By

**Providing for the continued existence of the Minneapolis Telecommunications Network, a Minnesota Non-Profit corporation dba MinnesotaTelevision Network - MTN**

**Whereas**, the City of Minneapolis has awarded franchises to and entered into franchise agreements with KBL Cablesystems of Minneapolis Limited Partnership, a Minnesota limited partnership ("KBLCMLP") with KBL Cablesystems of Minneapolis, Inc. ("KBLCMI"), a Minnesota corporation as its controlling general partner, KBLCMLP and KBLCMI doing business as Time Warner Cable; and

**Whereas**, the Minneapolis Telecommunications Network, dba Minneapolis Telecommunications Network - MTN ("MTN") is a non-profit corporation organized by the City under Minn. Stat. Chap. 317 (the Minnesota Non-profit Corporation Act), for the following purposes:

- (A) to promote the use of cable communications systems for community and public access in the City of Minneapolis; to address the information and culture needs of residents, business, non-profit organizations, educational organizations, and governmental bodies to regulate control and manage dedicated public channels;
- (B) to promote the common good and general welfare and to reinforce the bonds of community within the City;
- (C) to contract for service, to own, manage and/or lease equipment and facilities, contract for, hire and/or supervise personnel, raise funds, and engage in any lawful activity, none of which is for profit, for which corporations may be organized under Minn. Stat. Chap. 317; and

**Whereas**, in carrying out its authorized activities, MTN shall make every reasonable effort to seek and identify persons with commonality of interest and encourage them to use facilities and channels over which the corporation has jurisdiction to express their interest, concerns, and aspirations; provide free training or training for a fee (when appropriate); help individuals and groups develop and produce programs for cable-casting; assure the availability of accessible cable communications production facilities, pursuant to prescribed rules governing the use of such facilities; encourage the use of facilities and channels over which the corporation has jurisdiction to express divergent ideas and opinions on the broadest range of subjects; assure the non-commercial, non-discriminatory, free use of the facilities and channels over which the corporation has jurisdiction and provide service for a fee when time and equipment requirements dictate use of such fee; assure fair access for the presentation of alternative use and ideas, consistent with the Ordinances of the City of Minneapolis, the Statutes of the State of Minnesota, and the laws of the United States; provide some

programming different in format, style and content from the programming of radio and telecommunications operations serving the City of Minneapolis; and

**Whereas**, the Secretary of State for the State of Minnesota has certified that MTN's Articles of Incorporation were recorded with the Minnesota State Department on December 13, 1983, and that MTN is legally recognized under the Laws of Minnesota; and

**Whereas**, Minn. Stat. § 465.719, subd. 1 (v) (2000) defines a "corporation" as a "corporation created by a political subdivision before May 31, 1997, in which (i) the corporation's articles or incorporation or bylaws provide for the governing body of the political subdivision to serve as a corporation's governing board; (ii) the articles of incorporation or bylaws provide for appointed officials of the political subdivision or members of the governing body of the political subdivision or both to be automatically appointed to the board solely by virtue of their appointment or their election to office and they constitute a majority of the corporation's board members; or (iii) the governing body of the political subdivision approves the budget or expenditures of the corporation for purposes other than those related to oversight of public grants or loans made to the corporation under a competitive bidding process through which other entities are eligible"; and

**Whereas**, the Articles of Incorporation for MTN provide its annual operating and capital budgets are subject to the approval of the Minneapolis City Council; and

**Whereas**, in order to provide for the continued existence of a corporation created by a political subdivision, Minn. Stat. § 465.719, subd. 2, specifies that the political subdivision that created the corporation must adopt a resolution that complies with Minn. Stat. § 465.719, subd. 429, at a regularly scheduled meeting; and

**Whereas**, the City of Minneapolis is considered a political subdivision for the purposes of Minn. Stat. § 465.719; and

**Whereas**, to the extent that MTN is a "corporation" under Minn. Stat. § 465.719, the City must adopt the requisite resolution at a regularly scheduled meeting of the governing body of the political subdivision no later than August 1, 2003; and

**Whereas**, the City is adopting this resolution as required by Minn. Stat. § 465.719, subd. 2, for the purpose of providing for the continued existence of MTN; and

**Whereas**, a certified copy of this resolution must be filed with the Secretary of State pursuant to Minn. Stat. § 465.719, subd. 2; and

**Whereas**, pursuant to Minn. Stat. § 465.719, subd. 5, the resolution must make a detailed and specific finding regarding the purposes of the corporation, and why the corporation is the best alternative for accomplishing the purpose.

**Now, Therefore, Be It Resolved** by The City Council of The City of Minneapolis:

## FINDINGS

1. The Minnesota State Legislature, in enacting Chapter 238 of the Minnesota Statutes, intended to "assure channel availability for municipal services, educational television, program diversity, local expression and other programming communication services... and to stimulate the development of diverse instructional, educational, community interest and public affairs programming..." The Minnesota State Legislature sought to achieve these objectives, in part, by requiring cable operators to (i) make channels available for use by the public, educational authorities and local governments; and (ii) supply the minimal equipment necessary for the production and playback of video programming on a public access channel.
2. The City, in exercising its responsibility for public/community access programming has previously determined that a non-profit corporation focused solely on promoting, coordinating and facilitating the production of public access programming and the training of public access producers can best provide the public of the benefit of community programming and ensure the participation of diverse communities of interest in the cable-casting diverse viewpoints without direct government regulations.
3. Given the City's determination concerning the need for non-profit corporation, MTN was formed for the purposes described above.
4. The renewal of cable franchise system awarded by the City in 1999 to Time Warner Cable contains significant requirements for and in support of public/community access programming including but not limited to, the dedication of channels on the cable system, and payment of monies to the City over the life of the franchise for public, educational governmental access purposes.
5. The public, educational and governmental access reflect the significant interest in, and the need for public/community access in the City of Minneapolis franchise area
6. MTN is the best alternative for accomplishing the foregoing purposes, and executing the public, educational and governmental access purposes requirements in the City's franchise because :
  - a. The City, in its cable communications franchise ordinance specifically provided that the City shall establish a public non-profit corporation to be known as the MTN Network for the purpose of administering channel capacity provided to the City, and to provide programming and services which are in the public interest or constitute a public service that in the cable communications franchise ordinance the City has delegated the responsibility of providing mandated public interest programming to MTN.

- b. The City relied on the continued existence of MTN when the public/community access requirements were negotiated and it was anticipated that MTN would continue to manage public access channels and to operate public/community access facilities during the term of the current franchises in order to ensure that the public needs of the community are met. The need for MTN to provide public access purposes of the City is exhibited by the fact that MTN is specifically referenced in Chapter 2, Article III, sections 8 and 9 of the franchise agreement.
- c. The City entered into an Agreement with MTN on February 1, 1987 (City Contract No. 6544) authorizing rights and obligations each had relative to the development and provision of cable services in the public interest. On September 28, 2000, the City and MTN entered into a Fourteenth Amendment to that Agreement and extended that Agreement through December 31, 2004.
- d. The employees of MTN have significant experience and expertise in the production and editing of video programming.
- e. One of the primary purposes for public/community access is to provide citizens of the City with a forum where they may speak, through video programming over the cable system. MTN, as the entity responsible for managing the public/community access channels on the cable system, protects and advances the First Amendment rights of public/community programmers by eliminating direct government oversight and regulation of public access/community access programming.

**Now, Therefore, Be It Further Resolved** that the City Council of the City of Minneapolis:

1. That MTN shall comply with this resolution and with every law that applies to the City of Minneapolis, (as otherwise provided by a superseding law or regulation, or by any decision from a court of competent jurisdiction).
2. That MTN shall have those powers as are consistent with its purposes (purposes set forth in this resolution and MTN's Articles of Incorporation as amended) and the Minnesota Non-Profit Corporation Act as it may be amended from time to time. Notwithstanding the foregoing, the authorities and powers of MTN shall not exceed the authorities and powers of the City of Minneapolis, except as otherwise authorized under Minn. Stat. § 465.719.
3. That MTN shall specifically comply with those laws described in Minn. Stat. § 465.719, subd. 9.
4. That if on August 1, 2003, MTN has contracts or other obligations that are inconsistent with any requirement or requirements of Minn. Stat. § 465.719, the

application of that requirement or those requirements is delayed for the time necessary to avoid a breach or impairment of the contract or obligation.

5. To the extent that MTN receives public money from the City of Minneapolis, other than grants or loans made under a competitive process under which other entities are eligible, MTN shall be audited annually by either a certified public accountant or the State Auditor. Except as provided by law, the audit report must be presented at a regularly scheduled meeting of the City of Minneapolis. The audit report must be made available to individuals after presentation of the audit report to the City of Minneapolis.

6. MTN's Board of Directors is hereby directed to authorize and approve any amendments to its Articles of Incorporation as are necessary to comply with this resolution and to provide for the application of the laws under Minn. Stat. § 465.719, subd. 9. Any such amendments shall be made as soon as practicable after the adoption of this resolution and MTN's Board of Directors shall authorize an officer or designee of MTN to file amended articles of incorporation with the Secretary of State, if necessary, as soon as practicable after the adoption of this resolution.

7. After the effective date of this resolution, MTN shall not amend its articles of incorporation unless the City adopts a resolution in support of the change(s) as provided in Minn. Stat. § 465.719, subd. 2 ratifying existing corporations and a certified copy of the resolution is attached to the amended articles of incorporation filed with the Secretary of State.

8. That not later than six months after the expiration of the Fourteenth Amendment to the Agreement between the City and MTN (City Contract No. 6544), the City must review the activities of MTN and determine the need for the continued existence of MTN. The review must be conducted at a regularly scheduled meeting of the City Council and the city must adopt a resolution to continue the existence of MTN if it determines such continuance is justified.

9. The City Clerk is hereby directed to file a certified copy of this resolution with the Secretary of State.

10. If any particular finding, recital, or order in this resolution is held to be invalid, void or unenforceable, the remainder hereof shall remain valid and effective, unless otherwise specifically provided by law.

